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67108-048REMARKS

Applicant thanks the Examiner for the remarks and analysis contained in the most recent Office Action. Claims 3-5, 7, 8 and 11 include clerical amendments that have no relationship whatsoever with any rejection made against any claim in this application. New claims 16-22 are presented. Applicant respectfully requests reconsideration of this application where claims 1, 3-5 and 7-22 are pending.

Applicant respectfully traverses the rejection under 35 U.S.C. §102 based upon *Iseyama*. That document does not disclose at least two aspects of claim 1 and, therefore, there is no anticipation. *Iseyama* does not include signals from a wireless unit indicating an identity of a new base station that the wireless unit has selected from which to receive downlink data. Instead, the "condition report 2" message merely reports the state of reception at the mobile station (column 15, lines 32-35). Additionally, *Iseyama* does not teach sending such signals via an uplink control channel associated with a shared downlink data channel. At least these two portions of claim 1 are missing from *Iseyama* and, therefore, there is no anticipation.

Applicant respectfully submits that none of the claims can be considered obvious over *Iseyama* combined with any other reference. The portions of *Iseyama* that are missing are not found in the documents the Examiner proposes to combine with *Iseyama* and, therefore, the result of the proposed combination would not be the same as the claimed invention. Additionally, there is no motivation for making combinations suggested by the Examiner. For example, there is no motivation for adding downlink data rate information as taught by *Padovani, et al.* to the teachings of *Iseyama*. The *Iseyama* reference is concerned with handover techniques that allow a mobile station to continue using the same radio frequency that it was using with a previous base station. Data rate information provides no benefit within such a

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strategy. Therefore, there would be no benefit to making such a modification to *Iseyama* and the combination cannot be made. There is no *prima facie* case of obviousness against any of claims 3, 4, and 8-9.

There also is no motivation for combining *Iseyama* with *Forssell, et al.* Therefore, claims 10 and 11 cannot be considered obvious. Even if *Forssell, et al.* provides an indication as suggested by the Examiner, there is no benefit to adding that to the teachings to *Iseyama*. Adding an indication from *Forssell, et al.* to the teachings of *Iseyama* does not in any way facilitate *Iseyama's* strategy for trying to maintain the same radio frequency for a mobile station even after handoff. Without any benefit to making the combination, there is no motivation and the claims cannot be considered obvious. The *Iseyama* reference is completely silent about how to manage data packets between the different base stations. There is no suggestion or motivation from within the art for making the proposed combination. At best, Applicant's disclosure has provided the suggestion for making such a combination. Of course, Applicant's disclosure cannot be used as a suggestion for how to combine prior art references. Absent Applicant's teachings, there is no motivation for making the proposed combination and no *prima facie* case of obviousness.

None of the new claims are anticipated or rendered obvious by any of the art of record. The order of steps followed in claims 16 and 19 cannot be found in any of the references.

Applicant respectfully submits that this case is in condition for allowance. If the Examiner believes that a telephone conference will facilitate moving this case forward to being issued, Applicant's representative will be happy to discuss any issues regarding this application by telephone. Applicant's representative can be contacted at the telephone number indicated below.

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Applicant believes that no additional fees are necessary, however, the Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,

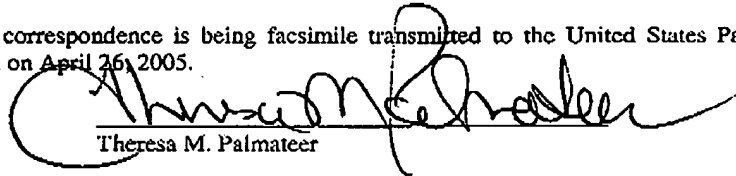


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CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, (703) 872-9306, on April 26, 2005.

  
Theresa M. Palmateer

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